

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

PROPOSAL TO AMEND THE LOCAL RULES

The full Court met in executive session on Thursday, April 30, 2009, and approved a proposal to amend LR26.2 of the Civil Rules of this Court as follows (additions shown thus, and deletions shown ~~thus~~):

LR26.2. Restricted Documents

1. (a) **Definitions.** As used in this rule the term:

"Restricted document" means a document or an exhibit to which access has been restricted either by a written order or by a rule;

"Sealed document" means a restricted document which the court has directed be maintained under seal electronically or, where the court allows a sealed document to be filed non-electronically, within a sealed enclosure such that access to the document requires breaking the seal of the enclosure;

"Document awaiting expunction" means a document or an exhibit which the court has ordered held for possible expunction but for which the period for holding prior to final destruction has yet to pass; and

"Restricting order" means any order restricting access to one or more documents filed or to be filed with the court.

(b) **Terms of a Restricting Order.** The court may for good cause shown enter an order directing that one or more documents be restricted. No attorney or party may file a restricted document

without prior order of court specifying the particular document or portion of a document that may be filed as restricted. The final paragraph of the order shall state the following information: (1) the identity of the persons, if any, who are to have access to the documents without further order of court; and (2) instructions for the disposition of the restricted documents following the conclusion of the case.

(c) Filing restricted documents. Where the court has permitted documents to be filed non-electronically, a copy of the restricting order must be included with any restricted document presented for filing. The attorney or party submitting a restricted document must file it in a sealed enclosure that conspicuously states on the face of the enclosure the attorney's or party's name and address, including e-mail address if the attorney is registered as a Filing User of electronic case filing, the caption of the case, and the title of the document; or

(d) At the discretion of the judge, the court may order the parties to retain copies of all documents containing confidential information which are provided in discovery under the protective order. Documents containing the confidential information shall not be filed with the clerk of court. Documents requiring the court's review shall be submitted to chambers *in camera* in a sealed envelope bearing the caption of the case, case number, the title of the motion or response to which the submitted confidential information pertains, and the name and telephone number of counsel submitting the documents. The producing party shall maintain the original documents intact for any further review. A redacted copy of all documents containing confidential information shall be filed with the clerk of court for the record.

(e) Docket Entries. The court may on written motion and for good cause shown enter an order directing that the docket entry for a restricted document show only that a restricted document was filed without any notation indicating its nature. ~~Absent such an order a restricted document shall be~~

~~docketed in the same manner as any other document except that the entry will indicate that the document is restricted.~~ Unless the Court directs otherwise, a restricted document shall be filed pursuant to procedures established as provided for by Local Rule 5.8.

(f) Inspection of Restricted Documents. The clerk shall maintain a record in a manner provided for by internal operating procedures approved by the Court of persons permitted access to restricted documents that have not been filed electronically. Such procedures may require anyone seeking access to show identification and to sign a statement to the effect that they have been authorized to examine the restricted document.

(g) Disposition of Restricted Documents. When a case is closed in which an order was entered pursuant to section (b) of this rule, the clerk shall maintain the documents that have not been filed electronically as restricted documents for a period of 63 days following the final disposition including appeals. Except where the court in response to a request of a party made pursuant to this section or on its own motion orders otherwise, at the end of the 63 day period the clerk shall return the restricted documents in the sealed enclosure to the attorney or party who or which filed it.

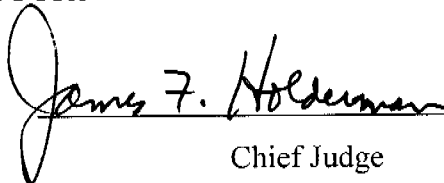
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COMMENT: The proposed modification supports the use of the sealed functionality feature of CM/ECF. By direction of the full Court and pursuant to 28 U.S.C. §207(b) regarding appropriate public notice and opportunity for comment, the Clerk is directed to: (a) cause the proposal to amend Local Rule 26.2 to be posted in the Courthouses at Chicago and Rockford, (b) cause notice of the proposal and requests for comment to be published in the *Chicago Daily Law Bulletin*, (c) cause notice of the proposal and requests for comment to be posted on the web site for the United States District Court Northern District of Illinois, (d) indicate in such notice a final date for receipt of comments, which date shall be sixty days from the first date of publication in the *Law Bulletin*, (e) collect and distribute among the members of the Advisory Committee for Local Rules all comments received, and (f) following receipt of a copy of the report and recommendation of the advisory

committee to distribute copies of the comments together with copies of the report and recommendation among the members of the Court for consideration at a regular meeting of the full Court.

ENTER:

FOR THE COURT


Chief Judge

Dated at Chicago, Illinois this 11th day of May, 2009